

REMARKS/ARGUMENTS

This Amendment is being filed in response to the Final Office Action dated June 7, 2010. Reconsideration and allowance of the application in view of the amendments made above and the remarks to follow are respectfully requested.

Claims 1-2 and 5-14 are pending in the Application. Claims 1, 5 and 11 are independent claims.

In the Office Action, claims 1-2 and 5-14 are rejected under 35 U.S.C. §103(a) over U.S. Patent No. 6,610,046 to Usami et al. ("Usami") in view of U.S. Patent Publication No. 2002/0013615 to Haim ("Haim"). This rejection is respectfully traversed. It is respectfully submitted that claims 1-2 and 5-14 are allowable over Usami in view of Haim for at least the following reasons.

Claim 1, as stated in the first three paragraphs of its Description section is concerned with taking care during injection of the plugging material into the aneurysm "that the catheter tip does not emerge from the aneurysm and discharge plugging material into the blood stream or block the blood vessel.

It is undisputed that Usami does not teach or suggest the active locator and monitor elements of the independent claims as admitted at the top of page 3 of the Final Office Action. Instead, Haim is cited by the Final Office Action for describing, in paragraphs [0028] and [0104], the active locator and monitor recited in claim 1. However, contrary to this assertion, it is respectfully submitted that Haim does not, teach, disclose, or suggest the quoted element of claim 1.

Haim in the referenced paragraph [0028] states:

Preferably, the drug delivery device comprises a retraction mechanism coupled to the needle which projects and retracts the needle into and out of the catheter, prior to and after drug delivery, respectively, and is capable of multiple projection/retraction cycles. Accordingly, the retraction mechanism may comprise a piston with a constrained stroke length, or another suitable device, as is known in the art.

Haim, in paragraph [0028] further states (emphasis added):

Preferably, a sensor is coupled to the retraction mechanism or to the needle itself, so as to sense when the needle has been fully projected out of the catheter and into the heart wall, prior to drug administration. Most preferably, the sensor also senses when the needle has been fully retracted into the catheter, to ensure that the catheter can be moved safely from one location to another. Preferably, drug administration is automatically disabled except when the catheter is in appropriate contact with a heart wall and the needle is projected to a desired length. Alternatively or additionally, a user of the apparatus is notified of the needle's position, with or without automatic disablement. (emphasis added)

Thus, it is respectfully submitted that reliance on this or any portion of Haim for that matter is misplaced. Clearly, what is being sensed by Haim is not coordinates to determine a spatial position and/or orientation of the catheter, as recited in claim 1, but extension and retraction of the needle.

The Final Office Action also references Haim, paragraph [0104], however, the sensor described in this paragraph is distinct from the sensor of paragraph [0028] that senses extension and retraction of the needle and clearly is not utilized by Haim in determining emergence of the catheter from an aneurysm, and stopping the supply of the filling material in response to the detected emergence, as substantially recited in claim 1.

It is respectfully submitted that the catheter apparatus of claim 1 is not anticipated or

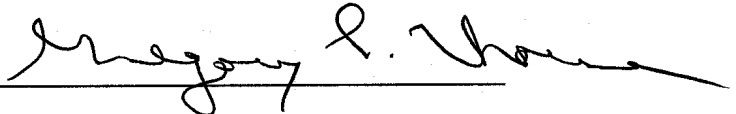
made obvious by the teachings of Usami in view of Haim. For example, Usami in view of Haim does not teach, disclose or suggest, amongst other patentable elements, (illustrative emphasis added) "an active locator configured to provide coordinates to determine a spatial position and/or orientation of the catheter; a pump configured to controllably supply filling material to the catheter; and a monitor connected to the active locator and the pump, wherein the monitor is configured to monitor the spatial position and/or orientation of the catheter based on the provided coordinates from the locator to detect emergence of the catheter from the aneurysm during the injection of the filling material into the aneurysm, and configured to stop the supply of the filling material in response to the detected emergence" as recited in claim 1, and as similarly recited in each of claims 5 and 11.

Based on the foregoing, the Applicants respectfully submit that independent claims 1, 5 and 11 are patentable over Usami in view of Haim and notice to this effect is earnestly solicited. Claims 2, 6-10 and 12-14 respectively depend from one of the independent claims and accordingly are allowable for at least this reason as well as for the separately patentable elements contained in each of the claims. Accordingly, separate consideration of each of the dependent claims is respectfully requested.

In addition, Applicants deny any statement, position or averment of the Examiner that is not specifically addressed by the foregoing argument and response. Any rejections and/or points of argument not addressed would appear to be moot in view of the presented remarks. However, the Applicants reserve the right to submit further arguments in support of the above stated position, should that become necessary. No arguments are waived and none of the Examiner's statements are conceded.

Applicants have made a diligent and sincere effort to place this application in condition for immediate allowance and notice to this effect is earnestly solicited.

Respectfully submitted,

By 

Gregory L. Thorne, Reg. 39,398
Attorney for Applicant(s)
August 2, 2010

THORNE & HALAJIAN, LLP

Applied Technology Center
111 West Main Street
Bay Shore, NY 11706
Tel: (631) 665-5139
Fax: (631) 665-5101